

Request for Reconsideration after Final Action

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SERIAL NUMBER	86081774
LAW OFFICE ASSIGNED	LAW OFFICE 102
MARK SECTION (no change)	
ARGUMENT(S)	
<p><u>REQUEST FOR RECONSIDERATION</u></p> <p>The Applicant hereby responds to the Final Office Action dated July 30, 2014 as follows:</p> <p>I. RESPONSE TO LIKELIHOOD OF CONFUSION REFUSAL UNDER SECTION 2(d):</p> <p>The Examining Attorney refused registration under Trademark Act §2(d) because the Applicant's mark, CARB SHREDDER for “vitamins; vitamin, mineral, dietary and nutritional supplements; dietary and nutritional supplement for weight loss, diet, sports nutrition, body building, muscle gain and training; powders for use as a meal replacement; and dietary supplement drinks, namely, nutritional supplements for bodybuilding,” in International Class 05 is likely to be confused with the mark SHREDDER, U.S. Registration No. 4414832, for dietary supplements.</p> <p>Applicant respectfully traverses this rejection and requests reconsideration of the FINAL refusal. Applicant’s use and registration of its mark CARB SHREDDER for vitamins and supplements is not likely to lead to confusion, mistake or deception with the above cited marks in view of the following: (a) Applicant’s long priority of use; (b) the extensive number of SHRED marks co-existing on the USPTO register for vitamins and supplements, as well as an extensive number of co-existing common law use of SHRED and SHREDDER for vitamins and supplements and (c) the differences between the listed goods as indicated by the specimens of use, <i>i.e.</i>, Applicant’s product is for losing weight while Registrant’s product is for gaining weight.</p> <p>A. APPLICANT’S PRIORITY OF USE OVER PRIOR REGISTRANT</p> <p>Applicant has been using the mark CARB SHREDDER in commerce since at least as early as July 2, 2007.</p> <p>On the other hand, prior Registrant filed U.S. Application for the mark SHREDDER on March 8, 2013</p>	

and has used the SHREDDER mark in commerce since at least as early as **April 1, 2012**.

Based on the above, Applicant has clear priority of use and has co-existed with SHREDDER for over a year. In this instance, the Examining Attorney is forcing Applicant to file an unnecessary Petition to Cancel against U.S. Application Serial No. 85870555.

While Applicant understands that, procedurally, filing a Petition to Cancel is the correct method to remove a prior registration from the Principal Register; nevertheless, based on the business reality, the Applicant believes the best course of action is to allow Applicant's CARB SHREDDER application to proceed to publication and allow prior Registrant to oppose Applicant's application in the event it believes it has priority of use and that the two marks create a likelihood of confusion. Applicant believes that prior Registrant will let "sleeping dogs lie" and not file any opposition.

B. APPLICANT'S MARK IS NOT CONFUSINGLY SIMILAR TO THE CITED REGISTRATION

Applicant's mark, CARB SHREDDER is not confusingly similar to the cited mark due to the different overall commercial impression created by mark due to: (1) the addition of the term CARB and (2) weakness of the terms SHRED and SHREDDER for vitamins and supplements.

In testing for likelihood of confusion, the similarity or dissimilarity of the marks with regard to appearance, sound, connotation and commercial impression are important considerations. In re E.I. duPont de Nemours & Co., 177 USPQ 563 (C.C.P.A. 1973); TMEP Section 1207.01. Similarity of the marks in one respect - sight, sound or meaning - will not automatically result in a finding of likelihood of confusion even if the goods are identical or closely related. TMEP Section 1207.01(b)(i). The Applicant believes that by taking into account all the relevant factors in comparing the Applicant's mark, the Examining Attorney will find that the marks are not similar and thus, there is no likelihood of confusion between the marks.

Although similarity in appearance is one consideration in determining whether there is a likelihood of confusion between marks, there are many instances where marks that may have superficial similarities in sound create overall differences in commercial impressions. There are several cases which have held that marks may be confusingly similar in appearance notwithstanding the addition, deletion or substitution of letters or words. See, e.g., Weiss Associates Inc. v. HRL Associates, Inc., 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990) (TMM held confusingly similar to TMS, both for computer software); In re Lamson Oil Co., 6 USPQ2d 1041 (TTAB 1987) (TRUCOOL for synthetic coolant held likely to be confused with TURCOOL for cutting oil). Nonetheless, exceptions to the above stated general rule regarding additions or deletions to marks may arise if: (1) the marks in their entireties convey significantly different commercial impressions, or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source due to its mere descriptiveness or **the commonness of its use**. See, e.g., In re Farm Fresh Catfish Co., 231 USPQ 495 (TTAB 1986) (CATFISH BOBBERS (with "CATFISH" disclaimed) for fish held not likely to be confused with BOBBER for restaurant services); In re Shawnee Milling Co., 225 USPQ 747 (TTAB 1985) (GOLDEN CRUST for flour held not likely to be confused with ADOLPH'S GOLD'N CRUST and design (with "GOLD'N CRUST" disclaimed) for coating and seasoning for food items); In re S.D. Fabrics, Inc., 223 USPQ 54 (TTAB 1984) (DESIGNERS/ FABRIC (stylized) for retail fabric store services held not likely to be confused with DAN RIVER DESIGNER FABRICS and design for textile fabrics).

Applicant submits that no likelihood of confusion exists between its mark CARB SHREDDER and the cited registration for SHREDDER.

First, as evidenced in more detail below, the term SHRED and SHREDDER are extremely weak terms for goods in International Class 05 due to extensive third party use. Applicant cites to an **extensive number of registrations and common law uses of SHRED and SHREDDER** for vitamin and supplement products co-existing without creating confusion (**see attached examples of third party registrations and common law uses**). Such commonness of use demonstrates that prior Registrant's mark is entitled to a very narrow scope of protection and that the addition of CARB is sufficient to distinguish the marks.

In this instance, based on extensive third party use, the mark SHREDDER is weak. The weaker mark is less likely to impress or be remembered by the relevant public; less likely to be associated with a single source; and less likely to be confused with another mark. See Gruner + Jahr USA Publ'g v. Meredith Corp., 991 F.2d 1072, 26 U.S.P.Q.2d 1583, 1587 (2d Cir. 1993); Monarch Licensing, Ltd. v. Ritam Int'l, Ltd., 24 U.S.P.Q.2d 1456, 1461 (S.D.N.Y. 1992) ("the less distinctive the mark—the more it describes the product or claims a virtue of the product—the less likely the consuming public is to associate that mark with a particular trading company and the more the differences will stand out between one weak descriptive mark and another"). In other words, the scope of protection accorded a weak mark will be limited and minor alterations may effectively negate any confusing similarity. First Sav. Bank FSB v. First Bank Sys., Inc., 101 F.3d 645, 40 U.S.P.Q.2d 1865, 1873 (10th Cir. 1996).

Second, the term SHRED has two distinct meanings in the vitamin and supplement industry. On the one hand, Applicant uses CARB SHREDDER as the common synonym or euphemism for "losing weight," *i.e.*, "to shred pounds." On the other hand, prior Registrant uses the term SHREDDER in the weight training field to be a "Shredder," someone who wants to gain muscle, *i.e.*, shred a phone book. Based upon such differences, consumers would understand that SHREDDER and CARB SHREDDER are different products for different purposes sold by different companies.

Third, in many instances, the USPTO holds marks are not similar despite having common elements. Each of the below listed co-existing marks incorporates variations of the term SHRED for vitamins and supplements in International Class 05; **however, the mere fact that the marks in issue share words, even dominant words, does not compel a conclusion of likely confusion.** General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 627, 2 USPQ 2d 1442, 1445 (8th Cir. 1987) ("The use of identical, even dominant, words in common does not automatically mean that two marks are similar."). The proper comparison is between the overall commercial impressions of the marks as consumers would view and remember them. For example, in Long John Distilleries, Ltd. v. Sazerac, 426 F.2d 1404, 166 USPQ 30 (CPA 1970), the marks LONG JOHN and FRIAR JOHN were found not to create a likelihood of confusion due to the marks conveying different commercial impressions.

Further, the fact that an applicant's mark incorporates a portion of the mark underlying a cited registration is far from dispositive. See, e.g., General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 627, 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987) (no likelihood of confusion between APPLE RAISIN CRISP and OATMEAL RAISIN CRISP for cereal); Lever Bros. v. Barcolene Co., 463 F.2d 1107 (C.C.P.A. 1972) (no likelihood of confusion between ALL CLEAR! and ALL for household cleaning products); Colgate-

Palmolive Co. v. Carter-Wallace, Inc., 432 F.2d 1400 (C.C.P.A. 1970) (no likelihood of confusion between PEAK for dentifrice and PEAK PERIOD for personal deodorant). The mere presence of shared elements in two or more marks does not necessarily make confusion likely. See Time Inc. v. Peterson Publ'g Co., 173 F.3d 113, 50 U.S.P.Q. 1474 (2d Cir. 1999) (no likelihood of confusion between TEEN and TEEN PEOPLE, both for magazines); Jet, Inc. v. Sewage Aeration Sys., 165 F.3d 419, 424 (6th Cir. 1999) (no likelihood of confusion between AEROB-A-JET and JET, both for sewage and waste-water treatment systems); First Savs. Bank, F.S.B. v. First Bank Sys., Inc., 101 F.3d 645, 653 (10th Cir. 1996) (no likelihood of confusion between FIRST BANK and FIRST BANK SYSTEM marks); Gruner + Jahr USA Publ'g v. Meredith Corp., 991 F.2d 1072, 26 U.S.P.Q.2d 1583, 1588 (2d Cir. 1993) (no likelihood of confusion between PARENTS and PARENT'S DIGEST, both for magazines); Sweats Fashions, Inc. v. Pannill Knitting Co., 833 F.2d 1560, 1564, 4 U.S.P.Q.2d 1793, 1796 (Fed. Cir. 1987) (no likelihood of confusion between SWEATS and ULTRA SWEATS, both used for sportswear); In re Ferrero, 479 F.2d 1395, 1398 (C.C.P.A. 1973) (no likelihood of confusion between TIC TAC for candy and TIC TAC TOE for ice cream); Servo Corp. of Am. v. Servo-Tek Prod. Co., 289 F.2d 955, 981, 129 U.S.P.Q. 352, 353 (C.C.P.A. 1961) (SERVOSPEED not confusingly similar to SERVO); USt Trust v. United States Trust Co., 210 F. Supp. 2d 9, 27-28 (D. Mass. 2002) (no likelihood of confusion between UNITED STATES TRUST COMPANY and UNITED STATES TRUST COMPANY OF BOSTON, both for financial services); In re Lancer Orthodontics, Inc., 1998 WL 377664, *2 (T.T.A.B. 1998) (no likelihood of confusion between IN ADVANCE and ADVANCE, both for dental products).

Based on the totality of the above, Applicant's mark and Registrants' marks are not confusingly similar.

C. OVERALL WEAKNESS OF THE TERMS SHRED AND SHREDDER

The Examining Attorney argues that "Applicant's mark is "CARB SHREDDER." Registrant's mark is "SHREDDER." Applicant's mark is similar in appearance and sound to registrant's mark in that they both share the common term SHREDDER."

Disclaimed matter that is descriptive of or generic for an applicant's goods and/or services is typically less significant or less dominant when comparing marks. See In re Dixie Rests., Inc., 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); In re Nat'l Data Corp., 753 F.2d at 1060, 224 USPQ at 752 ; TMEP §1207.01(b)(viii), (c)(ii). In this case, applicant has disclaimed the descriptive term CARB, which is an abbreviation of the term CARBOHYDRATE(s). See the enclosed definitions from the Yahoo.com dictionary and Vocabulary.com websites and showing the meaning of CARB is carbohydrate, which means "an essential structural component of living cells and source of energy for animals". Thus, the dominant, source indicating portion of the applicant's mark is the term SHREDDER, which is identical to the entire registered mark.

The applicant contends that the marks are not similar because (1) applicant has added the term CARB to the registered mark, (2) the marks are not confusing when applicant's mark is viewed as a whole without dissection, and (3) the term "SHRED" is extremely weak for class 005 good.

The examining attorney respectfully disagrees. First, as discussed, above, the dominant, source indicating portion of applicant's mark is identical to the entire registered mark.

Applicant respectfully disagrees that the term SHREDDER is the dominant portion of Applicant's mark. Typically, the first term of a mark is considered the dominant portion of the mark. It is the first

portion of the mark that consumers see and is the first words the consumer speaks when asking for the product. Thus, CARB, although disclaimed, as the first word in Applicant's mark, is the dominant portion of Applicant's mark. See, Leonard Publ' g Corp., 15 U.S.P.Q.2d 1574, 1576 (T.T.A.B. 1990) (descriptive word may be dominant if it is comparatively prominent).

The weight given to the respective portions of the marks "is not entirely free of subjectivity. . . It is sometimes said, for example, that the first part of a mark, especially if distinctive, is most likely to catch the eye and ear and make an impression on the purchaser's memory. See, Pathfinder Commc'ns Corp. v. Midwest Commc'ns Co., 593 F. Supp. 281, 284, 224 U.S.P.Q. 203, 205 (N.D. Ind. 1984) (referring to "the accepted fact that people perceive differences which occur at the end of words less clearly than when differences occur at the beginning of words"); Presto Prods., Inc. v. Nice-Pak Prods., Inc., 9 U.S.P.Q.2d 1895, 1897 (T.T.A.B. 1988) ("it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered"); Sally Beauty v. Beautyco, 304 F.3d 964, 972, 64 U.S.P.Q.2d 1321, 1324 (10th Cir. 2002) ("Although both marks begin with the same six letters, this similarity is not enough to outweigh the visual differences in the marks.").

The Examining Attorney argues that "adding a term to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d)." See Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc., 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); In re Toshiba Med. Sys. Corp., 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); In re El Torito Rests., Inc., 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii).

Applicant respectfully disagrees. There are numerous cases where adding a word to a weak mark is sufficient to obviate any likelihood of confusion between the marks. There are numerous instances where (1) where adding a word to a weak mark or (2) adding a descriptive term was deemed sufficient to distinguish the marks, including, but not limited to the following:

- SILK ' N SATIN versus SILK, Pacquin-Lester Co. v. Charmaceuticals, Inc., 484 F.2d 1384, 179 U.S.P.Q. 45 (C.C.P.A. 1973).
- SILK versus SILKSTICK, Melaro v. Pfizer, Inc., 214 U.S.P.Q. 645, 648 (T.T.A.B. 1982).
- CORN-ROYAL versus ROYAL, Standard Brands, Inc. v. Peters, 191 U.S.P.Q. 168, 172 (T.T.A.B. 1975).
- BOND-PLUS versus WONDER BOND PLUS, Indus. Adhesive Co. v. Borden, Inc., 218 U.S.P.Q. 945, 951–52 (T.T.A.B. 1983).
- ALPHA versus ALPHA STEEL, Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc., 616 F.2d 440, 205 U.S.P.Q. 981 (9th Cir. 1980).
- PLUS versus MEAT PLUS, Plus Prods. v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541, 544 (T.T.A.B. 1983).
- MAGIC versus SOUR MAGIC, Basic Vegetable Prods. Inc. v. Gen. Foods Corp., 165 U.S.P.Q. 781, 784 (T.T.A.B. 1970).
- PETRO versus JR JAMES RIVER PETRO CARD, Petro Stopping Ctrs. L.P. v. James River Petroleum, Inc., 130 F.3d 88, 44 U.S.P.Q.2d 1921, 1926–27 (4th Cir. 1997).
- EASY versus EASYTINT, Murray Corp. of Am. v. Red Spot Paint & Varnish Co., 280 F.2d 158, 126 U.S.P.Q. 390 (C.C.P.A. 1960).
- KEYCHECK, KEYBANKER versus KEY, In re Hamilton Bank, 222 U.S.P.Q. 174 (T.T.A.B. 1984).

- OOO BALL versus OOOE, Monarch Licensing Ltd. v. Ritam Int' l Ltd., 24 U.S.P.Q.2d 1456, 1461 (S.D.N.Y. 1992).
- CONDITION versus CURL & CONDITION, Redken Labs., Inc. v. Clairol, Inc., 501 F.2d 1403, 183 U.S.P.Q. 84 (9th Cir. 1974).
- GRAND HOTEL versus GRAND HOTELS NYC, In re Hartz Hotel Servs. Inc., 102 U.S.P.Q.2d 1150 (T.T.A.B. 2012).

In terms of overall commercial impression in the market place, Applicant's CARB SHREDDER creates a different and distinguishable overall commercial impression due to the different connotations created by the mark as a whole. Applicant's mark CARB SHREDDER is for **weight loss**, *i.e.* by using the product you will "shred weight" because the product blocks carbohydrate intake. On the other hand, Registrant's mark, based upon the specimens submitted with the application, is for **weight gain**, *i.e.*, you will be stronger and be able to shred by taking the product. The addition of the term CARB clues consumers into the fact that Applicant's product is for weight loss, as opposed to just SHREDDER which creates the commercial impression of weight gain.

The different overall commercial impression is clearly demonstrated by Applicant's and Prior Registrant's actual use of the mark in commerce based upon the specimens of use. Applicant attaches copies of the Vitamin Shoppe CARB SHREDDER label and prior Registrant's Total Body Nutrition's label for SHREDDER. As evidence of how each mark is actually used in commerce, the marks create different overall commercial impressions.

Thus, based on the totality, Applicant mark creates a distinguishable overall commercial impression from prior Registrant's mark.

D. EXTENSIVE THIRD PARTY USE OF THE TERM SHRED IN CONNECTION WITH SIMILAR GOODS

As indicated in the response to the First Office Action, the term SHRED and its phonetic variations, including, but not limited to SHREDDER, are extremely weak terms in connection with goods in International Class 05. As evidenced by the approximate thirty-one (31) live marks that incorporate the term SHRED, with or without additional terms, clearly demonstrates that the term SHRED and its phonetic variations is extremely weak for vitamins and supplements and entitled to a very narrow scope of protection vis-à-vis other marks that incorporate the term SHRED.

Evidence of third party uses of identical or similar marks in commerce is strong evidence that the term is weak and entitled to a very narrow scope of protection vis-à-vis other marks. As indicated above, there is extensive common law use of SHREDDER and SHRED for vitamin and supplements. Applicant attaches web excerpts from Google searches that reveal an extensive number of SHREDDER and SHRED marks for supplements currently in use in commerce— all co-existing without creating confusion, including, but not limited to:

- SHREDDER PRE-COMPETITION DIET SUPPLEMENT POWDER
- SHREDDER 7X

- TREN DEVASTATION ULTIMATE SHREDDER BY XCEL SPORTS NUTRITION
- CRASH PM SHREDDER
- SHREDDER PROGRAM for a weight loss program
- HYPER SHRED
- JYM SHRED JYM
- EGO SHREAD
- SHRED ULTRA
- SHRED MATRIX

Further, Applicant attaches several articles demonstrating the weakness of the term SHRED and SHREDDER in connection with supplement products. The term SHREDDER is extremely weak based upon common use in the supplement industry to refer to products that either “shred” weight or help the person “get shredded.” For example, Applicant attaches the following articles using SHRED, SHREDDER and SHREDDER descriptively to refer to either losing weight or becoming more muscular:

- LET-ER-RIP SUPPLEMENTS: SHREDDER STACK TO GET YOU JACKED
- YOU-TUBE VIDEO ENTITLED - BODYBUILDING SUPPLEMENTS GET RIPPED AND GET SHREDDER
- 6 STACKS FOR GETTING SHREDDER
- FIGURE SUPPLEMENT: STEM SHREDDER

The Examining Attorney argues that third party evidence of SHRED marks is irrelevant to the term SHREDDER.

Third, applicant has not shown the term “SHREDDER” is weak in the context of the class 005 goods, and thus, entitled to a narrow scope of protection. Specifically, the mark at issue is the

term “SHREDDER” not the term “SHRED” or any of the various permutations of the term “SHRED” in the third-party registrations cited by applicant i.e., “SHREDZ”, “SHRED HER”, “HYPER SHRED”, “CARDIASHRED HEART HEALTH WEIGHT LOSS”, “LIPO SHRED”, “RED SHRED”, “LIVE SHREDDED”, “THERMOSHRED”, “HYDROSHRED”, “SHREDDING GEL”, “SHRED-EX”, “SHRED TRIM DIET”, and “SHRED SLIM DIET”, respectively. In fact, the only mark cited against applicant is the term SHREDDER. None of the mark cited by Applicant includes the identical term “SHREDDER”. Thus, the co-existence of third-party registrations with marks incorporating various forms a term SHRED in the context of related class 005 goods shows that the registered mark “SHREDDER” is actually granted a narrow scope of protection only as to the term “SHREDDER”.

The first prong of the likelihood of confusion test is whether the marks create the same overall commercial impression, not that the terms are identical. The terms SHRED and SHREDDER are formulated from the same word – SHRED. Thus, third party uses of both SHRED and SHREDDER are highly relevant to determine the overall weakness of the mark, just like any misspelling, plural or adding a suffix to a term is highly relevant.

According to the attached Wikipedia article, SHRED is a verb which means “to drop fat and water weight before a competition.” The term SHREDDER is defined as a derived word from SHRED.

Verb[edit]

shred (third-person singular simple present shreds, present participle shredding, simple past shredded, past participle shredded or shred)

- 1.To cut or tear into narrow and long pieces or strips. [quotations ¼] (Can we find and add a quotation of Chaucer to this entry?)
- 2.(obsolete, transitive) To lop; to prune; to trim.
- 3.(snowboarding) To ride aggressively.
- 4.(bodybuilding) **To drop fat and water weight before a competition.**
- 5.(music, slang) To play very fast (especially guitar solos in rock and metal genres).

Derived terms[edit] - shredder

In this instance, third party uses of SHRED are highly relevant to whether the mark SHREDDER is entitled to the extremely wide scope of protection granted by the Examining Attorney.

Thus, although the Examining Attorney argues that ‘finally, the term SHREDDER conveys an identical commercial impression in the context of the identified goods for applicant and registrant, i.e., “vitamin, mineral, dietary and nutritional supplements for weight loss” and “dietary supplements”, respectively,’ the Examining Attorney is ignoring the fact that SHRED and SHREDDER are extremely weak marks, entitled to a narrow scope of protection and that the addition of the term CARB at the beginning of the mark sufficiently differentiates Vitamin Shoppe’s mark from the prior registration to avoid confusion in the real-world business marketplace, as opposed to the theoretical world of the United States Patent and Trademark Office.

E. EXTENSIVE THIRD PARTY USE OF THE TERM SHRED IN CONNECTION WITH SIMILAR GOODS

As indicated in the response to the First Office Action, the term SHRED and its phonetic variations, including, but not limited to SHREDDER is an extremely weak term in connection with goods in International Class 05. As evidence by the approximate thirty-one (31) live marks that incorporate the term SHRED, with or without additional terms, clearly demonstrates that the term SHRED and its phonetic variations is extremely weak for vitamins and supplements and entitled to a very narrow scope of protection vis-à-vis other marks that incorporate the term SHRED.

The extensive common use of SHRED, SHREDDER and its phonetic variations as a trademark is relevant to show that the mark or a portion of the mark is so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); Plus Products v. Star-Kist Foods, Inc., 220 USPQ 541, 544 (TTAB 1983). **In this instance, the addition of the term CARB sufficient alleviates any potential for confusion between the marks.**

According to the USPTO TESS Trademark Database, the following are active SHRED marks coexisting on the Principal Register without creating a likelihood of confusion:

- SHRED HER – U.S. Registration No. 4461635 for dietary supplements for fat burning, specifically targeted for women.
- LIPO SHRED – U.S. Registration No. 4337945 for nutritional supplements.
- SHREDZ – U.S. Registration No. 4197050 for dietary supplement for weight loss; supplements for body building; food and sport nutritional supplements for weight loss, strength and performance enhancement; nutritional supplements.
- SHRED-EX – U.S. Registration No. 2826006 for dietary supplements.
- HYPER SHRED – U.S. Registration No. 4369293 for dietary supplements.
- RED SHRED – U.S. Registration No. 4263259 for dietary supplements.
- LIVE SHREDDED – U.S. Registration No. 4077218 for dietary and nutritional supplements.
- THERMOSHRED – U.S. Registration No. 3419850 for food supplements for body building; food and sport nutritional supplements for strength and performance enhancement.
- HYDROSHRED – U.S. Registration No. 3410363 for ingredient blend sold as a component of nutritional supplements for body building, food and sport nutritional supplements for strength and performance enhancement.
- SHREDDING GEL – U.S. Registration No. 2830597 for medicated gel for visible reduction of surface body fat.
- CARDIASHRED HEART HEALTHY WEIGHT LOSS – U.S. Registration No. 4341316 for dietary and nutritional supplements; dietary and nutritional supplements for endurance sports; dietary and nutritional supplements used for weight loss; dietary supplements for human

consumption; dietary supplements in the nature of weight loss powders; liquid nutritional supplement; liquid protein supplements; mineral supplements; nutraceuticals for use as a dietary supplement; vitamin supplements; weight management supplements.

Further, the USPTO Published for Opposition the following marks incorporating SHRED for vitamins and supplement.

- SHRED TRIM DIET – U.S. Application Serial No. 86016500 for Dietary and nutritional supplements used for weight loss.
- SHRED TRIM DIET – U.S. Application Serial No. 86016513 for Dietary and nutritional supplements used for weight loss.

Note – these applications were not opposed and the USPTO issued Notices of Allowance on March 18, 2014.

The number and nature of similar marks in use on similar goods and services is an important factor in the likelihood of confusion analysis. In re E.I. duPont de Nemours & Co., 177 USPQ 563 (C.C.P.A. 1973); TMEP Section 1207.01. Furthermore, as the court noted in General Mills, evidence of third-party use of similar marks on similar goods shows that marks in that class are relatively weak and entitled to only a narrow scope of protection. General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 626-627 (8th Cir. 1987).

In this instance, third party use of the mark SHRED, SHREDED or SHREDDER in connection with vitamins and supplements demonstrates that the prior Registrant's mark is entitled to an extremely narrow scope of protection vis-à-vis other marks. Generally, the existence of third-party registrations cannot justify the registration of another mark that is similar to a previously registered mark as to create a likelihood of confusion, or to cause mistake, or to deceive. Nonetheless, third-party registrations may still be relevant to show that the mark or a portion of the mark is **so commonly used that the public will look to other elements to distinguish the source of the goods or services**. See, e.g., AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); Plus Products v. Star-Kist Foods, Inc., 220 USPQ 541, 544 (TTAB 1983).

In this instance SHRED or SHREDDER are so extensively used that consumers will look to any additional portion of the mark, even descriptive or generic words, to distinguish the marks. See, In re Broadway Chicken, Inc., 38 USPQ2d 1559 (TTAB 1996), even the addition of a generic word may be sufficient to distinguish the marks when the initial term of the mark, although identical, is extremely weak due to third party use. **As indicated above, the addition of the term CARB sufficient alleviates any potential for confusion between the marks.**

Based upon such coexistence of marks such as SHREDDER, SHRED HER and LIPO SHRED marks, the owners of the cited marks neither possess the exclusive rights to the mark SHREDDER for products listed in International Classes 05 nor do they possess the right to prevent Applicant from adopting, using and registering the its mark CARB SHREDDER for its specific goods.

F. THE DIFFERENCES BETWEEN THE GOODS

The Examining Attorney believes that Applicant's goods are related to the prior Registrant's listed goods. Applicant's goods are clearly distinct and unrelated to the prior Registrant's listed goods under the likelihood of confusion analysis. The TMEP states that if the goods in question are not related or marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely. TMEP Section 1207.01(a)(i). See, e.g., Local Trademarks, Inc. v.

Handy Boys, Inc., 16 USPQ2d 1156 (TTAB 1990)(LITTLE PLUMBER for liquid drain opener held not confusingly similar to LITTLE PLUMBER and design for advertising services). The case of In re Best Products Co., Inc., 231 USPQ 988 (TTAB 1986), is highly similar to the present situation. In Best Products, the TTAB held that the contemporaneous use of "Jewelers' Best" for jewelry, and "Best Jewelers" for jewelry services was not likely to result in confusion, since the marks conveyed different commercial impressions and since one mark was for service and the other was for goods.

First and foremost, Applicant operates in a distinct channel of trade from the prior registrants such that Applicant's goods would not be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source. Applicant, the Vitamin Shoppe, operates one of the largest retail and online vitamin and supplement store chains in the United States. Applicant does not provide Registrant's products (Total Body Nutrition) in the Vitamin Shoppe store. Vitamin Shoppe's marketing channels are distinct from the marketing and trade channels of the cited prior registrant.

Applicant has been selling CARB SHREDDER product since at least as early as July 2, 2007 for a weight management product. Registrant's product SHREDDER, A KILLER AB FORMULA, is for specifically for **weight and muscle gain**. Registrant's and Applicant's products are for different, unrelated and opposite purposes – **weight gain v. weight loss**. Consequently, there is no likelihood of confusion between the marks.

II. CONCLUSION:

Thus, in view of the foregoing remarks, Applicant respectfully submits that the application is now in condition for publication, and early notice of the same is earnestly requested. However, if the Examining Attorney has any questions, the Examining Attorney may contact the undersigned at the telephone number listed in the response.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\860\817\86081774\xml7\ RFR0002.JPG
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DESCRIPTION OF EVIDENCE FILE	EXTENSIVE common law use, Wikipedia articles and web-page excerpts
SIGNATURE SECTION	
RESPONSE SIGNATURE	/tjbraverman/
SIGNATORY'S NAME	Todd Braverman
SIGNATORY'S POSITION	Attorney for Applicant - NY Bar
SIGNATORY'S PHONE NUMBER	646-878-0820
DATE SIGNED	02/02/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	

SUBMIT DATE	Mon Feb 02 20:49:53 EST 2015
TEAS STAMP	USPTO/RFR-38.108.232.2-20 150202204953333817-860817 74-53012d6989c122d9c5eac4 58f8df22d718eacd5fc978331 ad24b7f2e3f76dd1a-N/A-N/A -20150202203617375278

PTO Form 1960 (Rev 9/2007)
OMB No. 0651-0050 (Exp. 07/31/2017)

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86081774** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

REQUEST FOR RECONSIDERATION

The Applicant hereby responds to the Final Office Action dated July 30, 2014 as follows:

I. RESPONSE TO LIKELIHOOD OF CONFUSION REFUSAL UNDER SECTION 2(d):

The Examining Attorney refused registration under Trademark Act §2(d) because the Applicant's mark, **CARB SHREDDER** for “vitamins; vitamin, mineral, dietary and nutritional supplements; dietary and nutritional supplement for weight loss, diet, sports nutrition, body building, muscle gain and training; powders for use as a meal replacement; and dietary supplement drinks, namely, nutritional supplements for bodybuilding,” in International Class 05 is likely to be confused with the mark SHREDDER, U.S. Registration No. 4414832, for dietary supplements.

Applicant respectfully traverses this rejection and requests reconsideration of the FINAL refusal. Applicant's use and registration of its mark **CARB SHREDDER** for vitamins and supplements is not likely to lead to confusion, mistake or deception with the above cited marks in view of the following: (a) Applicant's long priority of use; (b) the extensive number of SHRED marks co-existing on the USPTO register for vitamins and supplements, as well as an extensive number of co-existing common law use of SHRED and SHREDDER for vitamins and supplements and (c) the differences between the listed goods as indicated by the specimens of use, *i.e.*, Applicant's product is for losing weight while Registrant's product is for gaining weight.

A. APPLICANT'S PRIORITY OF USE OVER PRIOR REGISTRANT

Applicant has been using the mark CARB SHREDDER in commerce since at least as early as **July 2, 2007**.

On the other hand, prior Registrant filed U.S. Application for the mark SHREDDER on March 8, 2013 and has used the SHREDDER mark in commerce since at least as early as **April 1, 2012**.

Based on the above, Applicant has clear priority of use and has co-existed with SHREDDER for over a year. In this instance, the Examining Attorney is forcing Applicant to file an unnecessary Petition to Cancel against U.S. Application Serial No. 85870555.

While Applicant understands that, procedurally, filing a Petition to Cancel is the correct method to remove a prior registration from the Principal Register; nevertheless, based on the business reality, the Applicant believes the best course of action is to allow Applicant's CARB SHREDDER application to proceed to publication and allow prior Registrant to oppose Applicant's application in the event it believes it has priority of use and that the two marks create a likelihood of confusion. Applicant believes that prior Registrant will let "sleeping dogs lie" and not file any opposition.

B. APPLICANT'S MARK IS NOT CONFUSINGLY SIMILAR TO THE CITED REGISTRATION

Applicant's mark, CARB SHREDDER is not confusingly similar to the cited mark due to the different overall commercial impression created by mark due to: (1) the addition of the term CARB and (2) weakness of the terms SHRED and SHREDDER for vitamins and supplements.

In testing for likelihood of confusion, the similarity or dissimilarity of the marks with regard to appearance, sound, connotation and commercial impression are important considerations. In re E.I. duPont de Nemours & Co., 177 USPQ 563 (C.C.P.A. 1973); TMEP Section 1207.01. Similarity of the marks in one respect - sight, sound or meaning - will not automatically result in a finding of likelihood of confusion even if the goods are identical or closely related. TMEP Section 1207.01(b)(i). The Applicant believes that by taking into account all the relevant factors in comparing the Applicant's mark, the Examining Attorney will find that the marks are not similar and thus, there is no likelihood of confusion between the marks.

Although similarity in appearance is one consideration in determining whether there is a likelihood of confusion between marks, there are many instances where marks that may have superficial similarities in sound create overall differences in commercial impressions. There are several cases which have held that marks may be confusingly similar in appearance notwithstanding the addition, deletion or substitution of letters or words. See, e.g., Weiss Associates Inc. v. HRL Associates, Inc., 902 F.2d 1546, 14 USPQ2d 1840 (Fed. Cir. 1990) (TMM held confusingly similar to TMS, both for computer software); In re Lamson Oil Co., 6 USPQ2d 1041 (TTAB 1987) (TRUCOOL for synthetic coolant held likely to be confused with TURCOOL for cutting oil). Nonetheless, exceptions to the above stated general rule regarding additions or deletions to marks may arise if: (1) the marks in their entireties convey significantly different commercial impressions, or (2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source due to its mere descriptiveness or **the commonness of its use**. See, e.g., In re Farm Fresh Catfish Co., 231 USPQ 495 (TTAB 1986) (CATFISH BOBBERS (with "CATFISH" disclaimed) for fish held not likely to be confused with BOBBER for restaurant services); In

re Shawnee Milling Co., 225 USPQ 747 (TTAB 1985) (GOLDEN CRUST for flour held not likely to be confused with ADOLPH'S GOLD'N CRUST and design (with "GOLD'N CRUST" disclaimed) for coating and seasoning for food items); In re S.D. Fabrics, Inc., 223 USPQ 54 (TTAB 1984) (DESIGNERS/FABRIC (stylized) for retail fabric store services held not likely to be confused with DAN RIVER DESIGNER FABRICS and design for textile fabrics).

Applicant submits that no likelihood of confusion exists between its mark CARB SHREDDER and the cited registration for SHREDDER.

First, as evidenced in more detail below, the term SHRED and SHREDDER are extremely weak terms for goods in International Class 05 due to extensive third party use. Applicant cites to an **extensive number of registrations and common law uses of SHRED and SHREDDER** for vitamin and supplement products co-existing without creating confusion (see **attached examples of third party registrations and common law uses**). Such commonness of use demonstrates that prior Registrant's mark is entitled to a very narrow scope of protection and that the addition of CARB is sufficient to distinguish the marks.

In this instance, based on extensive third party use, the mark SHREDDER is weak. The weaker mark is less likely to impress or be remembered by the relevant public; less likely to be associated with a single source; and less likely to be confused with another mark. See Gruner + Jahr USA Publ'g v. Meredith Corp., 991 F.2d 1072, 26 U.S.P.Q.2d 1583, 1587 (2d Cir. 1993); Monarch Licensing, Ltd. v. Ritam Int'l, Ltd., 24 U.S.P.Q.2d 1456, 1461 (S.D.N.Y. 1992) ("the less distinctive the mark—the more it describes the product or claims a virtue of the product—the less likely the consuming public is to associate that mark with a particular trading company and the more the differences will stand out between one weak descriptive mark and another"). In other words, the scope of protection accorded a weak mark will be limited and minor alterations may effectively negate any confusing similarity. First Sav. Bank FSB v. First Bank Sys., Inc., 101 F.3d 645, 40 U.S.P.Q.2d 1865, 1873 (10th Cir. 1996).

Second, the term SHRED has two distinct meanings in the vitamin and supplement industry. On the one hand, Applicant uses CARB SHREDDER as the common synonym or euphemism for "losing weight," *i.e.*, "to shred pounds." On the other hand, prior Registrant uses the term SHREDDER in the weight training field to be a "Shredder," someone who wants to gain muscle, *i.e.*, shred a phone book. Based upon such differences, consumers would understand that SHREDDER and CARB SHREDDER are different products for different purposes sold by different companies.

Third, in many instances, the USPTO holds marks are not similar despite having common elements. Each of the below listed co-existing marks incorporates variations of the term SHRED for vitamins and supplements in International Class 05; **however, the mere fact that the marks in issue share words, even dominant words, does not compel a conclusion of likely confusion.** General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 627, 2 USPQ 2d 1442, 1445 (8th Cir. 1987) ("The use of identical, even dominant, words in common does not automatically mean that two marks are similar."). The proper comparison is between the overall commercial impressions of the marks as consumers would view and remember them. For example, in Long John Distilleries, Ltd. v. Sazerac, 426 F.2d 1404, 166 USPQ 30 (CPA 1970), the marks LONG JOHN and FRIAR JOHN were found not to create a likelihood of confusion due to the marks conveying different commercial impressions.

Further, the fact that an applicant's mark incorporates a portion of the mark underlying a cited registration is far from dispositive. See, e.g., General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 627, 3 U.S.P.Q.2d 1442, 1445 (8th Cir. 1987) (no likelihood of confusion between APPLE RAISIN CRISP and OATMEAL RAISIN CRISP for cereal); Lever Bros. v. Barcolene Co., 463 F.2d 1107 (C.C.P.A. 1972) (no likelihood of confusion between ALL CLEAR! and ALL for household cleaning products); Colgate-Palmolive Co. v. Carter-Wallace, Inc., 432 F.2d 1400 (C.C.P.A. 1970) (no likelihood of confusion between PEAK for dentifrice and PEAK PERIOD for personal deodorant). The mere presence of shared elements in two or more marks does not necessarily make confusion likely. See Time Inc. v. Peterson Publ'g Co., 173 F.3d 113, 50 U.S.P.Q. 1474 (2d Cir. 1999) (no likelihood of confusion between TEEN and TEEN PEOPLE, both for magazines); Jet, Inc. v. Sewage Aeration Sys., 165 F.3d 419, 424 (6th Cir. 1999) (no likelihood of confusion between AEROB-A-JET and JET, both for sewage and waste-water treatment systems); First Savs. Bank, F.S.B. v. First Bank Sys., Inc., 101 F.3d 645, 653 (10th Cir. 1996) (no likelihood of confusion between FIRST BANK and FIRST BANK SYSTEM marks); Gruner + Jahr USA Publ'g v. Meredith Corp., 991 F.2d 1072, 26 U.S.P.Q.2d 1583, 1588 (2d Cir. 1993) (no likelihood of confusion between PARENTS and PARENT'S DIGEST, both for magazines); Sweats Fashions, Inc. v. Pannill Knitting Co., 833 F.2d 1560, 1564, 4 U.S.P.Q.2d 1793, 1796 (Fed. Cir. 1987) (no likelihood of confusion between SWEATS and ULTRA SWEATS, both used for sportswear); In re Ferrero, 479 F.2d 1395, 1398 (C.C.P.A. 1973) (no likelihood of confusion between TIC TAC for candy and TIC TAC TOE for ice cream); Servo Corp. of Am. v. Servo-Tek Prod. Co., 289 F.2d 955, 981, 129 U.S.P.Q. 352, 353 (C.C.P.A. 1961) (SERVOSPEED not confusingly similar to SERVO); UStTrust v. United States Trust Co., 210 F. Supp. 2d 9, 27-28 (D. Mass. 2002) (no likelihood of confusion between UNITED STATES TRUST COMPANY and UNITED STATES TRUST COMPANY OF BOSTON, both for financial services); In re Lancer Orthodontics, Inc., 1998 WL 377664, *2 (T.T.A.B. 1998) (no likelihood of confusion between IN ADVANCE and ADVANCE, both for dental products).

Based the totality of the above, Applicant's mark and Registrants' marks are not confusingly similar.

C. OVERALL WEAKNESS OF THE TERMS SHRED AND SHREDDER

The Examining Attorney argues that "Applicant's mark is "CARB SHREDDER." Registrant's mark is "SHREDDER." Applicant's mark is similar in appearance and sound to registrant's mark in that they both share the common term SHREDDER.'

Disclaimed matter that is descriptive of or generic for an applicant's goods and/or services is typically less significant or less dominant when comparing marks. See In re Dixie Rests., Inc., 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); In re Nat'l Data Corp., 753 F.2d at 1060, 224 USPQ at 752 ; TMEP §1207.01(b)(viii), (c)(ii). In this case, applicant has disclaimed the descriptive term CARB, which is an abbreviation of the term CARBOHYDRATE(s). See the enclosed definitions from the Yahoo.com dictionary and Vocabulary.com websites and showing the meaning of CARB is carbohydrate, which means "an essential structural component of living cells and source of energy for animals". Thus, the dominant, source indicating portion of the applicant's mark is the term SHREDDER, which is identical to the entire registered mark.

The applicant contends that the marks are not similar because (1) applicant has added the term CARB to the registered mark, (2) the marks are not confusing when applicant's mark is viewed as

a whole without dissection, and (3) the term “SHRED” is extremely weak for class 005 good. The examining attorney respectfully disagrees. First, as discussed, above, the dominant, source indicating portion of applicant’s mark is identical to the entire registered mark.

Applicant respectfully disagrees that the term SHREDDER is the dominant portion of Applicant’s mark. Typically, the first term of a mark is considered the dominant portion of the mark. It is the first portion of the mark that consumers see and is the first words the consumer speaks when asking for the product. Thus, CARB, although disclaimed, as the first word in Applicant’s mark, is the dominant portion of Applicant’s mark. See, Leonard Publ’ g Corp., 15 U.S.P.Q.2d 1574, 1576 (T.T.A.B. 1990) (descriptive word may be dominant if it is comparatively prominent).

The weight given to the respective portions of the marks “is not entirely free of subjectivity. . . It is sometimes said, for example, that the first part of a mark, especially if distinctive, is most likely to catch the eye and ear and make an impression on the purchaser’s memory. See, Pathfinder Commc’ns Corp. v. Midwest Commc’ns Co., 593 F. Supp. 281, 284, 224 U.S.P.Q. 203, 205 (N.D. Ind. 1984) (referring to “the accepted fact that people perceive differences which occur at the end of words less clearly than when differences occur at the beginning of words”); Presto Prods., Inc. v. Nice-Pak Prods., Inc., 9 U.S.P.Q.2d 1895, 1897 (T.T.A.B. 1988) (“it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered”); Sally Beauty v. Beautyco, 304 F.3d 964, 972, 64 U.S.P.Q.2d 1321, 1324 (10th Cir. 2002) (“Although both marks begin with the same six letters, this similarity is not enough to outweigh the visual differences in the marks.”).

The Examining Attorney argues that “adding a term to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d).” See Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc., 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); In re Toshiba Med. Sys. Corp., 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); In re El Torito Rests., Inc., 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii).

Applicant respectfully disagrees. There are numerous cases where adding a word to a weak mark is sufficient to obviate any likelihood of confusion between the marks. There are numerous instances where (1) where adding a word to a weak mark or (2) adding a descriptive term was deemed sufficient to distinguish the marks, including, but not limited to the following:

- SILK ’ N SATIN versus SILK, Pacquin-Lester Co. v. Charmaceuticals, Inc., 484 F.2d 1384, 179 U.S.P.Q. 45 (C.C.P.A. 1973).
- SILK versus SILKSTICK, Melaro v. Pfizer, Inc., 214 U.S.P.Q. 645, 648 (T.T.A.B. 1982).
- CORN-ROYAL versus ROYAL, Standard Brands, Inc. v. Peters, 191 U.S.P.Q. 168, 172 (T.T.A.B. 1975).
- BOND-PLUS versus WONDER BOND PLUS, Indus. Adhesive Co. v. Borden, Inc., 218 U.S.P.Q. 945, 951–52 (T.T.A.B. 1983).
- ALPHA versus ALPHA STEEL, Alpha Indus., Inc. v. Alpha Steel Tube & Shapes, Inc., 616 F.2d 440, 205 U.S.P.Q. 981 (9th Cir. 1980).
- PLUS versus MEAT PLUS, Plus Prods. v. Star-Kist Foods, Inc., 220 U.S.P.Q. 541, 544 (T.T.A.B. 1983).
- MAGIC versus SOUR MAGIC, Basic Vegetable Prods. Inc. v. Gen. Foods Corp., 165 U.S.P.Q. 781, 784 (T.T.A.B. 1970).
- PETRO versus JR JAMES RIVER PETRO CARD, Petro Stopping Ctrs. L.P. v. James River

Petroleum, Inc., 130 F.3d 88, 44 U.S.P.Q.2d 1921, 1926–27 (4th Cir. 1997).

- EASY versus EASYTINT, Murray Corp. of Am. v. Red Spot Paint & Varnish Co., 280 F.2d 158, 126 U.S.P.Q. 390 (C.C.P.A. 1960).
- KEYCHECK, KEYBANKER versus KEY, In re Hamilton Bank, 222 U.S.P.Q. 174 (T.T.A.B. 1984).
- OOOZ BALL versus OOOZ, Monarch Licensing Ltd. v. Ritam Int'l Ltd., 24 U.S.P.Q.2d 1456, 1461 (S.D.N.Y. 1992).
- CONDITION versus CURL & CONDITION, Redken Labs., Inc. v. Clairol, Inc., 501 F.2d 1403, 183 U.S.P.Q. 84 (9th Cir. 1974).
- GRAND HOTEL versus GRAND HOTELS NYC, In re Hartz Hotel Servs. Inc., 102 U.S.P.Q.2d 1150 (T.T.A.B. 2012).

In terms of overall commercial impression in the market place, Applicant's CARB SHREDDER creates a different and distinguishable overall commercial impression due to the different connotations created by the mark as a whole. Applicant's mark CARB SHREDDER is for **weight loss**, *i.e.* by using the product you will "shred weight" because the product blocks carbohydrate intake. On the other hand, Registrant's mark, based upon the specimens submitted with the application, is for **weight gain**, *i.e.*, you will be stronger and be able to shred by taking the product. The addition of the term CARB clues consumers into the fact that Applicant's product is for weight loss, as opposed to just SHREDDER which creates the commercial impression of weight gain.

The different overall commercial impression is clearly demonstrated by Applicant's and Prior Registrant's actual use of the mark in commerce based upon the specimens of use. Applicant attaches copies of the Vitamin Shoppe CARB SHREDDER label and prior Registrant's Total Body Nutrition's label for SHREDDER. As evidence of how each mark is actually used in commerce, the marks create different overall commercial impressions.

Thus, based on the totality, Applicant mark creates a distinguishable overall commercial impression from prior Registrant's mark.

D. EXTENSIVE THIRD PARTY USE OF THE TERM SHRED IN CONNECTION WITH SIMILAR GOODS

As indicated in the response to the First Office Action, the term SHRED and its phonetic variations, including, but not limited to SHREDDER, are extremely weak terms in connection with goods in International Class 05. As evidenced by the approximate thirty-one (31) live marks that incorporate the term SHRED, with or without additional terms, clearly demonstrates that the term SHRED and its phonetic variations is extremely weak for vitamins and supplements and entitled to a very narrow scope of protection vis-à-vis other marks that incorporate the term SHRED.

Evidence of third party uses of identical or similar marks in commerce is strong evidence that the term is weak and entitled to a very narrow scope of protection vis-à-vis other marks. As indicated above, there is extensive common law use of SHREDDER and SHRED for vitamin and supplements. Applicant attaches web excerpts from Google searches that reveal an extensive number of SHREDDER and SHRED marks for supplements currently in use in commerce— all co-existing without creating confusion, including, but not limited to:

- SHREDDER PRE-COMPETITION DIET SUPPLEMENT POWDER
- SHREDDER 7X
- TREN DEVASTATION ULTIMATE SHREDDER BY XCEL SPORTS NUTRITION
- CRASH PM SHREDDER
- SHREDDER PROGRAM for a weight loss program
- HYPER SHRED
- JYM SHRED JYM
- EGO SHREAD
- SHRED ULTRA
- SHRED MATRIX

Further, Applicant attaches several articles demonstrating the weakness of the term SHRED and SHREDER in connection with supplement products. The term SHREDDER is extremely weak based upon common use in the supplement industry to refer to products that either “shred” weight or help the person “get shredded.” For example, Applicant attaches the following articles using SHRED, SHREDDER and SHREDDED descriptively to refer to either losing weight or becoming more muscular:

- LET-ER-RIP SUPPLEMENTS: SHREDDER STACK TO GET YOU JACKED
- YOU-TUBE VIDEO ENTITLED - BODYBUILDING SUPPLEMENTS GET RIPPED AND GET SHREDDED
- 6 STACKS FOR GETTING SHREDDED
- FIGURE SUPPLEMENT: STEM SHREDDER

The Examining Attorney argues that third party evidence of SHRED marks is irrelevant to the term SHREDDER.

Third, applicant has not shown the term “SHREDDER” is weak in the context of the class 005 goods, and thus, entitled to a narrow scope of protection. Specifically, the mark at issue is the term “SHREDDER” not the term “SHRED” or any of the various permutations of the term “SHRED” in the third-party registrations cited by applicant i.e., “SHREDZ”, “SHRED HER”, “HYPER SHRED”, “CARDIASHRED HEART HEALTH WEIGHT LOSS”, “LIPO SHRED”, “RED SHRED”, “LIVE SHREDDER”, “THERMOSHRED”, “HYDROSHRED”, “SHREDDING GEL”, “SHRED-EX”, “SHRED TRIM DIET”, and “SHRED SLIM DIET”, respectively. In fact, the only mark cited against applicant is the term SHREDDER. None of the mark cited by Applicant includes the identical term “SHREDDER”. Thus, the co-existence of third-party registrations with marks incorporating various forms a term SHRED in the context of related class 005 goods shows that the registered mark “SHREDDER” is actually granted a narrow scope of protection only as to the term “SHREDDER”.

The first prong of the likelihood of confusion test is whether the marks create the same overall commercial impression, not that the terms are identical. The terms SHRED and SHREDDER are formulated from the same word – SHRED. Thus, third party uses of both SHRED and SHREDDER are highly relevant to determine the overall weakness of the mark, just like any misspelling, plural or adding a suffix to a term is highly relevant.

According to the attached Wikipedia article, SHRED is a verb which means “to drop fat and water weight before a competition.” The term SHREDDER is defined as a derived word from SHRED.

Verb[edit]

shred (third-person singular simple present shreds, present participle shredding, simple past shredded, past participle shredded or shred)

1.To cut or tear into narrow and long pieces or strips. [quotations ¼] (Can we find and add a quotation of Chaucer to this entry?

2.(obsolete, transitive) To lop; to prune; to trim.

3.(snowboarding) To ride aggressively.

4.(bodybuilding) To drop fat and water weight before a competition.

5.(music, slang) To play very fast (especially guitar solos in rock and metal genres).

Derived terms[edit] - shredder

In this instance, third party uses of SHRED are highly relevant to whether the mark SHREDDER is entitled to the extremely wide scope of protection granted by the Examining Attorney.

Thus, although the Examining Attorney argues that ‘finally, the term SHREDDER conveys an identical commercial impression in the context of the identified goods for applicant and registrant, i.e., “vitamin, mineral, dietary and nutritional supplements for weight loss” and “dietary supplements”, respectively,” the Examining Attorney is ignoring the fact that SHRED and SHREDDER are extremely weak marks,

entitled to a narrow scope of protection and that the addition of the term CARB at the beginning of the mark sufficiently differentiates Vitamin Shoppe's mark from the prior registration to avoid confusion in the real-world business marketplace, as opposed to the theoretical world of the United States Patent and Trademark Office.

E. EXTENSIVE THIRD PARTY USE OF THE TERM SHRED IN CONNECTION WITH SIMILAR GOODS

As indicated in the response to the First Office Action, the term SHRED and its phonetic variations, including, but not limited to SHREDDER is an extremely weak term in connection with goods in International Class 05. As evidenced by the approximate thirty-one (31) live marks that incorporate the term SHRED, with or without additional terms, clearly demonstrates that the term SHRED and its phonetic variations is extremely weak for vitamins and supplements and entitled to a very narrow scope of protection vis-à-vis other marks that incorporate the term SHRED.

The extensive common use of SHRED, SHREDDER and its phonetic variations as a trademark is relevant to show that the mark or a portion of the mark is so commonly used that the public will look to other elements to distinguish the source of the goods or services. See, e.g., AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); Plus Products v. Star-Kist Foods, Inc., 220 USPQ 541, 544 (TTAB 1983). **In this instance, the addition of the term CARB sufficient alleviates any potential for confusion between the marks.**

According to the USPTO TESS Trademark Database, the following are active SHRED marks coexisting on the Principal Register without creating a likelihood of confusion:

- SHRED HER – U.S. Registration No. 4461635 for dietary supplements for fat burning, specifically targeted for women.
- LIPO SHRED – U.S. Registration No. 4337945 for nutritional supplements.
- SHREDZ – U.S. Registration No. 4197050 for dietary supplement for weight loss; supplements for body building; food and sport nutritional supplements for weight loss, strength and performance enhancement; nutritional supplements.
- SHRED-EX – U.S. Registration No. 2826006 for dietary supplements.
- HYPER SHRED – U.S. Registration No. 4369293 for dietary supplements.
- RED SHRED – U.S. Registration No. 4263259 for dietary supplements.
- LIVE SHREDDER – U.S. Registration No. 4077218 for dietary and nutritional supplements.
- THERMOSHRED – U.S. Registration No. 3419850 for food supplements for body building; food and sport nutritional supplements for strength and performance enhancement.
- HYDROSHRED – U.S. Registration No. 3410363 for ingredient blend sold as a component of nutritional supplements for body building, food and sport nutritional supplements for strength and performance enhancement.
- SHREDDING GEL – U.S. Registration No. 2830597 for medicated gel for visible reduction of surface body fat.

- CARDIASHRED HEART HEALTHY WEIGHT LOSS – U.S. Registration No. 4341316 for dietary and nutritional supplements; dietary and nutritional supplements for endurance sports; dietary and nutritional supplements used for weight loss; dietary supplements for human consumption; dietary supplements in the nature of weight loss powders; liquid nutritional supplement; liquid protein supplements; mineral supplements; nutraceuticals for use as a dietary supplement; vitamin supplements; weight management supplements.

Further, the USPTO Published for Opposition the following marks incorporating SHRED for vitamins and supplement.

- SHRED TRIM DIET – U.S. Application Serial No. 86016500 for Dietary and nutritional supplements used for weight loss.
- SHRED TRIM DIET – U.S. Application Serial No. 86016513 for Dietary and nutritional supplements used for weight loss.

Note – these applications were not opposed and the USPTO issued Notices of Allowance on March 18, 2014.

The number and nature of similar marks in use on similar goods and services is an important factor in the likelihood of confusion analysis. In re E.I. duPont de Nemours & Co., 177 USPQ 563 (C.C.P.A. 1973); TMEP Section 1207.01. Furthermore, as the court noted in General Mills, evidence of third-party use of similar marks on similar goods shows that marks in that class are relatively weak and entitled to only a narrow scope of protection. General Mills, Inc. v. Kellogg Co., 824 F.2d 622, 626-627 (8th Cir. 1987). In this instance, third party use of the mark SHRED, SHREDED or SHREDDER in connection with vitamins and supplements demonstrates that the prior Registrant's mark is entitled to an extremely narrow scope of protection vis-à-vis other marks. Generally, the existence of third-party registrations cannot justify the registration of another mark that is similar to a previously registered mark as to create a likelihood of confusion, or to cause mistake, or to deceive. Nonetheless, third-party registrations may still be relevant to show that the mark or a portion of the mark is **so commonly used that the public will look to other elements to distinguish the source of the goods or services**. See, e.g., AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406, 177 USPQ 268, 269-70 (C.C.P.A. 1973); Plus Products v. Star-Kist Foods, Inc., 220 USPQ 541, 544 (TTAB 1983).

In this instance SHRED or SHREDDER are so extensively used that consumers will look to any additional portion of the mark, even descriptive or generic words, to distinguish the marks. See, In re Broadway Chicken, Inc., 38 USPQ2d 1559 (TTAB 1996), even the addition of a generic word may be sufficient to distinguish the marks when the initial term of the mark, although identical, is extremely weak due to third party use. **As indicated above, the addition of the term CARB sufficient alleviates any potential for confusion between the marks.**

Based upon such coexistence of marks such as SHREDDER, SHRED HER and LIPO SHRED marks, the owners of the cited marks neither possess the exclusive rights to the mark SHREDDER for products listed in International Classes 05 nor do they possess the right to prevent Applicant from adopting, using and registering the its mark CARB SHREDDER for its specific goods.

F. THE DIFFERENCES BETWEEN THE GOODS

The Examining Attorney believes that Applicant's goods are related to the prior Registrant's listed goods. Applicant's goods are clearly distinct and unrelated to the prior Registrant's listed goods under the likelihood of confusion analysis. The TMEP states that if the goods in question are not related or

marketed in such a way that they would be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source, then, even if the marks are identical, confusion is not likely. TMEP Section 1207.01(a)(i). See, e.g., Local Trademarks, Inc. v. Handy Boys, Inc., 16 USPQ2d 1156 (TTAB 1990)(LITTLE PLUMBER for liquid drain opener held not confusingly similar to LITTLE PLUMBER and design for advertising services). The case of In re Best Products Co., Inc., 231 USPQ 988 (TTAB 1986), is highly similar to the present situation. In Best Products, the TTAB held that the contemporaneous use of "Jewelers' Best" for jewelry, and "Best Jewelers" for jewelry services was not likely to result in confusion, since the marks conveyed different commercial impressions and since one mark was for service and the other was for goods.

First and foremost, Applicant operates in a distinct channel of trade from the prior registrants such that Applicant's goods would not be encountered by the same persons in situations that would create the incorrect assumption that they originate from the same source. Applicant, the Vitamin Shoppe, operates one of the largest retail and online vitamin and supplement store chains in the United States. Applicant does not provide Registrant's products (Total Body Nutrition) in the Vitamin Shoppe store. Vitamin Shoppe's marketing channels are distinct from the marketing and trade channels of the cited prior registrant.

Applicant has been selling CARB SHREDDER product since at least as early as July 2, 2007 for a weight management product. Registrant's product SHREDDER, A KILLER AB FORMULA, is for specifically for **weight and muscle gain**. Registrant's and Applicant's products are for different, unrelated and opposite purposes – **weight gain v. weight loss**. Consequently, there is no likelihood of confusion between the marks.

II. CONCLUSION:

Thus, in view of the foregoing remarks, Applicant respectfully submits that the application is now in condition for publication, and early notice of the same is earnestly requested. However, if the Examining Attorney has any questions, the Examining Attorney may contact the undersigned at the telephone number listed in the response.

EVIDENCE

Evidence in the nature of EXTENSIVE common law use, Wikipedia articles and web-page excerpts has been attached. [Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

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[Evidence-15](#)
[Evidence-16](#)
[Evidence-17](#)
[Evidence-18](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /tjbraverman/ Date: 02/02/2015

Signatory's Name: Todd Braverman

Signatory's Position: Attorney for Applicant - NY Bar

Signatory's Phone Number: 646-878-0820

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86081774

Internet Transmission Date: Mon Feb 02 20:49:53 EST 2015

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SCORCH STUBBORN FAT


Fat burners can help support fat loss by enhancing metabolism, maintaining healthy appetite, and increasing energy. They can also optimize workout potential by increasing energy and focus.*

VIEW TOP 50 OVERALL PRODUCTS

VIEW TOP 10 IN EACH CATEGORY

Protein Powders | Protein Bars | Pre-Workouts | Post-Workouts | Multivitamins | Fat Burners | Creatines | Tons | Testosterone | Fat Oil Accessories

1



OVERALL RATING

9.2

Excellent

RSP NUTRITION QUADRALEAN

Stimulant Free Weight Loss*
Supports Fat Loss, Lean Muscle Mass,
Increased Metabolism and Appetite Control*

VIEW PRODUCT

2



OVERALL RATING

9.0

Excellent

JYM SHRED JYM

Three Stage Fat-Loss Support Capsule
A Fully Loaded Fat Loss Weapon Built with Six Synergistic Ingredients*

VIEW PRODUCT

3



OVERALL RATING

8.5

Excellent

NUTREX LIPO-6 BLACK ULTRA CONCENTRATE

Ultra Concentrated, Powerful, All-Out Fat Burning Formula*
Designed to Assist Your Body in Destroying Fat Deposits*

VIEW PRODUCT

"I ACCOMPLISHED MY GOALS WITH TWO SIMPLE TACTICS: HARD WORK AND CONSISTENCY."
THE PROCESS HAD UPS AND DOWNS, PHYSICALLY AND MENTALLY, BUT IT WAS REWARDING TO SEE MY BODY TRANSFORM.
-DEREK HARRBERTS



4



OVERALL RATING

8.5

Excellent

MUSCLETECH HYDROXYCUT HARDCORE ELITE

Super Thermogenic Weight Loss Support Capsule*
Supports Extreme Energy, Enhanced Focus, and Powerful Weight Loss*

VIEW PRODUCT

5



OVERALL RATING

8.8

Excellent

BSN HYPER SHRED

Thermodynamic Metabolic Activator*
Designed To Support Metabolic Weight Management, Energy, & More*

VIEW PRODUCT

6



OVERALL RATING

8.2

Excellent

MUSCLEPHARM SHRED MATRIX

Revolutionary 8-Stage Fat Loss System*
Boosts Metabolism, Increases Energy, and Supports Appetite while Helping to Control Cravings*

VIEW PRODUCT

7



OVERALL RATING

8.4

Excellent

CELLUCOR SUPER HD

Weight Loss Support Capsule*
Increased Energy while Boosting Fat Metabolism and Controlling Appetite*

VIEW PRODUCT

"SUCCEEDING IN SMALL WAYS GIVES YOU THE CONFIDENCE BOOST TO KEEP GOING"
I WAS LOOKING BACK AT PHOTOS FROM A FAMILY TRIP TO GERMANY AND REALIZED THAT I LOST CONTROL OF MY WEIGHT.
-NICKI MCKNIGHT



8



OVERALL RATING

9.0

Excellent

ARNOLD SCHWARZENEGGER SERIES IRON CLUTS

Thermogenic Casual Fat Cutting Fat*
Supports Healthy Estrogen Balance And Control Levels*

VIEW PRODUCT

9



OVERALL RATING

9.1

Excellent

PRIMAFORCE YOHIMBINE HCL

Fat Loss Promotion Capsule*
Helps Maintain a Healthy Heart and Decreases Fat Synthesis*

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10



OVERALL RATING

8.9

Excellent

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Fat Burning Powder to Enhance Focus and Support Positive Mood*

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*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.



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- 1



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- 2



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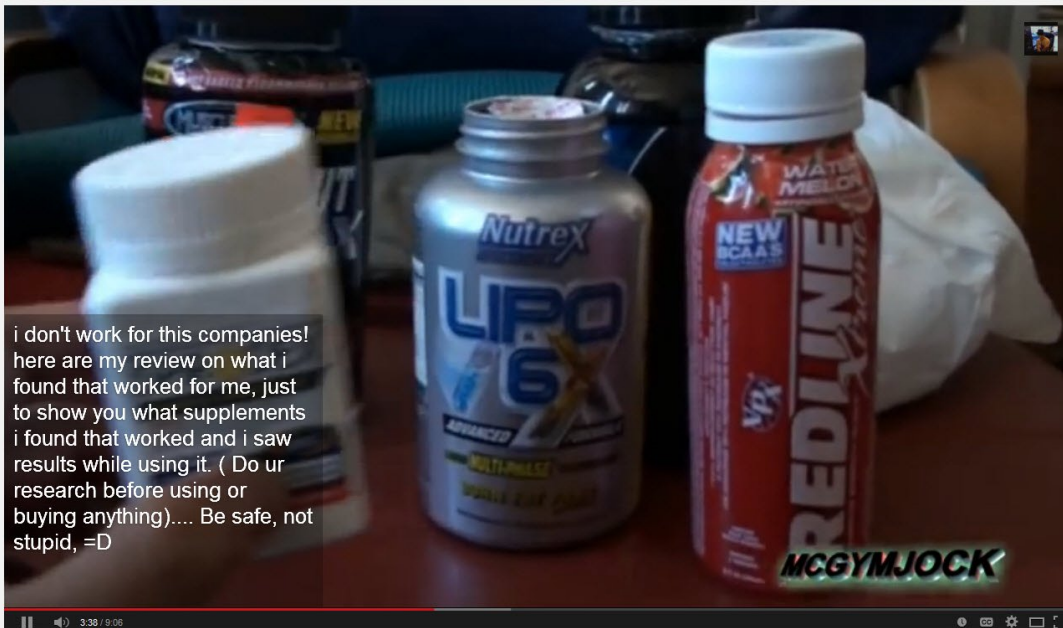


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research before using or
buying anything).... Be safe, not
stupid, =D

Bodybuilding Supplements get ripped and get shredded



MCGYMJOCK

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Uploaded on Jun 23, 2011

Bodybuilding Supplements, get ripped and get shredded. I use this product such as Thermogenics or fat burners as others would refer to it. Hardening agents, Thermogenic pills.

I'm not by any means part of any company that works for them, i just use the products not sell them, this my bodybuilding supplements review.

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Crazy Mass cutting stack is one of the most effective get ripped stacks I've come across.

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#2 Rated - Nitrocut

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#3 Rated - Force Factor VolcaNO

Force Factor VolcaNO is a leading pre workout supplement that is a follow up to the original.

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MAX SHRED XTREME ANTLER REVIEW – DO THEY REALLY WORK?

BY [ROB MILLER](#) NOVEMBER 8, 2013 338

It's no secret that guys across the country will do practically whatever it takes to get ripped and shredded, even dabbling in illegal drugs to get the body they want. A recent blog post I saw on a supposed "men's health" site called Men's Life and Health reports that you don't need to revert to steroids to get massive, but instead, you can turn to 2 supplements celebrity's have been taking ripped, lean physiques.

What supplement stack could they possibly be talking about? None other than Max Shred and Xtreme Antler, 2 over the counter supplements that apparently the companies of which are handing out free bottles of the stuff. I mean, why would a company want to turn a profit when they can just hand the stuff out. Well, you're about to thank me for saving you from the scam that these products turn out to be!

WHAT IS MAX SHRED AND XTREME ANTLER?



According to this blog post I'm reading, Max Shred (or Maximum Shred as it's referred to on their official site) is a all natural pre-workout supplement that is designed to get you stronger, bigger, and more cut. It also apparently helps you gain more muscle from workouts, boosts your energy, burns fat, and gives you massive looking pumps, all within a few weeks!

We tried finding an official ingredients list, but there is nothing listed on the Max Shred website. My guess is that it contains some sort of L-Arginine based on their descriptions, and maybe even a stimulant or 2. It would be a little more helpful to determine whether or not there is the potential for side effects if we knew what the ingredients were, but I digress.

Xtreme Antler works very similarly according to their official site, boasting extreme gains in muscle growth, supercharging your sex drive, and improving memory and mental skills. Just like Max Shred, the potential side effects from the ingredients in Xtreme Antler are not mentioned, but in this case I think it is safe to assume that probably the only ingredient in it is Deer Antler Velvet, or IGF-1. Deer antler velvet is quite the controversial substance, and was actually used by Ray Lewis from the Baltimore Ravens to help recover from an injury prior to the superbowl. (source: 1)

MAX SHRED XTREME ANTLER
REVIEWED BY:
ROB MILLER
1.5 OUT OF 5.0

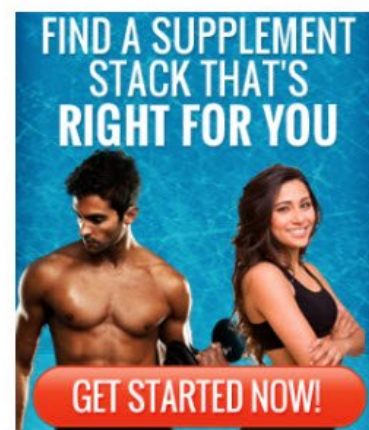


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AVERAGE USER RATING:
2.4 OUT OF 5 STARS

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Figure Supplement: Stem Shredder

Warm-up: 10 minutes on an upright bike. Keep the first 2 minutes easy, then stay above 80 RPMs for the remaining 8 minutes.

Do 10 sets of 10. Complete all exercises listed as a giant set.

1. Step ups holding DB 10x each leg
2. Reverse Hack Squat (face inward, shoulders on pad, squat deep) 10x
3. Sumo Deadlifts 10x
4. Walking lunges holding DB 10x each leg



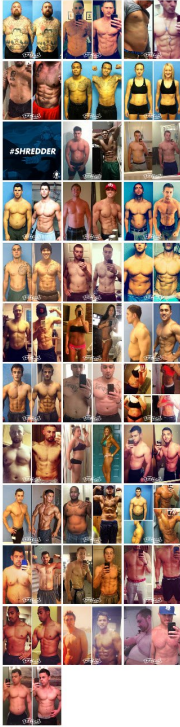
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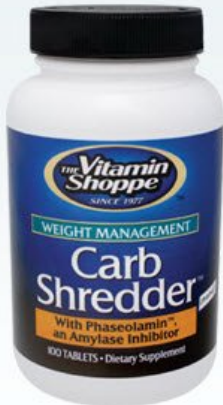
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the Vitamin Shoppe (More from [the Vitamin Shoppe](#))

Carb Shredder

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6 STACKS FOR GETTING SHREDDED

Here's your no-B.S. blueprint for getting ultra lean

By Five Staff

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By Jim Stoppani, PhD and Eric Velazquez

We're providing you with a no-B.S. blueprint for getting ultra lean. And we don't mean "over the course of time" or "eventually"—we mean "this month." This detailed training and nutrition plan will definitely test your resolve, but we doubt you'll be complaining when you see how you look at the end of the month.

The Cheap Fat Burner Stack
If you're on a budget—and who isn't in this economy?—then buying a pre-made supplement stack may be outside of your wallet size. These three fat burners are not only effective, but cheap. In fact, the first two ingredients are so effective that they are found in almost every fat burner on the market.

Supplement	Dose
Green Tea Extract	500-1000 mg 3 x daily before meals
Caffeine	100-300 mg in the morning, 1 hour before workouts
Capsaicin	40,000–80,000 Scoville thermal units three times a day

The Build-Muscle, Drop-Fat Stack
This stack helps you maximize muscle growth and fat loss by boosting fat loss while simultaneously increasing testosterone and fat functions in the muscle. For example, carbamite not only shuttles fat into the area of cells where it is burned, it increases the amount of testosterone receptors in muscle cells. Yohimbine not only burns fat but it boosts testosterone levels, as does forskolin.

Supplement	Dose
Carbamite	1-2 g with breakfast, pre workout meals, post workout meals, nighttime meals
Yohimbine	2-10 mg three times a day, one dose 30 min. before workouts
Forskolin	20-50 mg of forskolin 2-3 times daily before meals

A Fat for Fat Burning Stack
This stack will not only melt the fat off, it will help you feel less hungry, feel less moody, and feel full of energy while dieting for the next 30 days.

Supplement	Dose
Beta-phenylethylamine	100-500 mg 1-2 times daily
Synephrine	200-600 mg of citrus-aureum standardized for 5-20 mg of synephrine, 2-3 times per day before meals
Caffeine	100-300 mg in the morning, 1 hour before workouts

Aminos That Burn Fat Stack
These three aminos don't just build muscle, they burn fat too. For example, arginine boosts nitric oxide (NO) levels, which increases the release of fat from fat cells. Glutamine has been found to boost metabolic rate and the branched-chain amino acids (BCAA), particularly leucine, have been found to enhance fat loss.

Supplement	Dose
Arginine	3-5 grams of 30-60 minutes before breakfast; 30-60 minutes before workouts; 30-60 minutes before bed
Glutamine	5-10 with breakfast, with pre and postworkout meals before bed
BCAAs	5-10 with breakfast, with pre and postworkout meals before bed

Minerals That Munch Fat Stack
Most guys only think of minerals as something in their multivitamin/mineral supplement that they know they should take for health purposes. Yet several minerals are critical for helping you get and stay lean. For example, getting adequate calcium keeps a hormone that aids fat gain at bay. Selenium keeps thyroid hormone production up and zinc keeps metabolic rate high. Getting ample amounts of these three will do the trick.

Supplement	Dose
Calcium	500-600 mg twice per day with meals
Selenium	200-400 mcg per day with meals
ZMA	Provision 30 mg zinc - take on an empty stomach 30-60 minutes before bed

Fats That Fry Fat Stack
Twenty years ago, every nutritionist and doctor were stressing the importance of a low-fat diet void of all kinds of fat, even the healthy ones. So it may seem contradictory to suggest that taking fats can help you drop fat. Yet these three fish oil, conjugated linoleic acid (CLA) and gamma linolenic acid (GLA) will do just that.

Supplement	Dose
Fish oil	1-2 grams two to three times per day with meals
CLA	2-3 grams two to three times per day with meals
GLA	1-3 grams two to three times per day with meals

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